IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Writ Petition No.1577 of 2007

Shantisagar Police Co-operative
Housing Society Ltd. Petitioner

Vs.

State CID & ors. Respondents

Mr.A.Y.Sakhare, Senior Counsel with Mr.Y.A. Sakhare
i/b. M/s YKS Legal for petitioner.

Mr.P.A.Pol, APP for State.

CORAM: B.H.MARLAPALLE, J.

October 17, 2007.

P.C.

. Heard Mr.Sakhare, the learned Senior Counsel for the petitioner - Society. Mr.Pol, the learned APP appears for the respondents i.e. the State CID as well as the State of Maharashtra. On 10/8/2007 the following order has been passed by the learned Special Metropolitan Magistrate, In-charge 49th Court, Vikhroli and the said order is challenged in this petition:

"Perused report. Heard I.O., Dy.S.P. Mr. Boraste. Perused case diary and other papers of investigation. It appears that the Accused were/are operating the Bank Accounts in which the amount collected by deception was deposited. There are reasons to believe at this stage that four accounts described in this report are required to be attached for detection of crime more effectively. Hence, SB-19, Mumbai District Central Co-op Bank, Bandra Branch, SB-762, SB-1592 in Samata Sahakari Bank, Bandra Branch, SB-14467 Indian Bank, Bandra Branch, SB-5000 Indian Bank, Khar Branch stands seized under Section 105 of Cr.P.C. Issue letter to the concerned Bank authorities to stop the transactions in these accounts from today."

. It is contended by the petitioner - Society that from 10/8/2007 the five Bank accounts as referred to hereinabove have been seized and the Society has not been able to operate the said accounts. Consequently the activities of the petitioner - Society and more particularly the on going construction activities have come to a

standstill. The petitioner, therefore, prays for setting aside the said order and thereby allow the petitioner - Society to operate its Bank accounts which will enable them to complete the construction activities expeditiously and provide housing facilities to the members who are waiting for such tenements.

. Mr.Pol, the learned APP has pointed out that on account of innumerable complaints of fraud and cheating etc., investigations have been handed over to the State CID, Crime to probe into the activities of the Housing Society and more particularly its Chairman Dr.Kapse and as part of the investigation an audit was directed to be conducted as per the order passed by the Registrar and the said order is under challenge in a revision application presently pending before the State Government. By way of interim order the Auditor has been restrained from proceeding further.

. Keeping in view the fact that in respect of five buildings, ninety per cent construction has been completed and in respect of the remaining six buildings, the construction is required to be speeded

up, it is imperative that the Society is allowed to operate the accounts.

. Hence the impugned order is modified as under:

(a) The Society is allowed to operate the above referred five Bank accounts subject to the authorised signatories of the respective accounts submitting receipt and withdrawal details to the I.O. Shri Boraste, Dy. S.P. or to Shri Vijay Patil, S.P., State CID, Crime as well as to the Asst. Registrar, Co-operative Societies (Slum SRO), Bandra.

(b) In addition, the I.O. -Shri Boraste is also authorised to verify the receipts as well as the withdrawals in respect of these five accounts every fortnight.

(c) Pending Revision Application before the State Government registered as RVA-2707/Pra.Kra.190/15-S is directed to be heard and decided on its own merits as expeditiously as possible and preferably by 31st December 2007.

(d) In case the I.O. notices any breach in

maintaining these conditions by the Society, he is at liberty to approach this Court.

. The petition is disposed off in terms of the above directions.

(B.H.MARL